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6 | Attorneys for Defendant  
**SALLIE MAE BANK**

10 In re } USBC Case No. 23-02089  
11 Phillip Ryan Sweetland, }  
12 Debtor, }  
13 }  
14 Phillip Ryan Sweetland, } Adv. Proc. Case No. 23-02089 – E  
15 Plaintiff, } Complaint Filed: 11/1/23  
16 vs. }  
17 UNITED STATES DEPARTMENT OF }  
18 EDUCATION, ET. AL. , } Defendants. }

Defendant SALLIE MAE BANK (“Defendant” or “SMB”), answers Plaintiff Phillip Ryan Sweetland<sup>1</sup> as follows:

## **J. PERSONAL INFORMATION**

23        1.     SMB is currently without knowledge of the allegations of Paragraph One  
24 and therefore, they are denied.

25 2. SMB is currently without knowledge of the allegations of Paragraph Two

<sup>1</sup> Phillip Ryan Sweetland, *pro se*, initiated the litigation by filing an Attestation in Support of Request for Stipulation Conceding Dischargeability of Student Loans (“Attestation”). It is not clear whether Mr. Sweetland intends the Attestation to be a Complaint. However, in an abundance of caution, the Defendant files this Answer and Affirmative Defenses.

1 and therefore, they are denied.

2 3. SMB is currently without knowledge of the allegations of Paragraph Three  
3 and therefore, they are denied.

4 4. SMB is currently without knowledge of the allegations of Paragraph Four  
5 and therefore, they are denied.

6 5. SMB is currently without knowledge of the allegations of Paragraph Five  
7 and therefore, they are denied.

8 6. SMB is currently without knowledge of the allegations of Paragraph Six  
9 and therefore, they are denied.

10 7. SMB is currently without knowledge of the allegations of Paragraph Seven  
11 and therefore, they are denied.

12 8. SMB is currently without knowledge of the allegations of Paragraph Eight  
13 and therefore, they are denied.

14 9. SMB is currently without knowledge of the allegations of Paragraph Nine  
15 and therefore, they are denied.

## 16 II. CURRENT INCOME AND EXPENSES

17 10. SMB is currently without knowledge of the allegations of Paragraph Ten  
18 and therefore, they are denied.

### 19 A. Household Gross Income

20 11. SMB is currently without knowledge of the allegations of Paragraph  
21 Eleven and therefore, they are denied.

22 12. SMB is currently without knowledge of the allegations of Paragraph  
23 Twelve and therefore, they are denied.

24 13. SMB is currently without knowledge of the allegations of Paragraph  
25 Thirteen and therefore, they are denied.

### 26 B. Monthly Expenses

27 14. SMB is currently without knowledge of the allegations of Paragraph  
28 Fourteen and therefore, they are denied.

1       15. SMB is currently without knowledge of the allegations of Paragraph  
2 Fifteen and therefore, they are denied.

3       16. SMB is currently without knowledge of the allegations of Paragraph  
4 Sixteen and therefore, they are denied.

5       17. SMB is currently without knowledge of the allegations of Paragraph  
6 Seventeen and therefore, they are denied.

7                   **III. FUTURE INABILITY TO REPAY STUDENT LOANS**

8       18. SMB is currently without knowledge of the allegations of Paragraph  
9 Eighteen and therefore, they are denied.

10      19. SMB is currently without knowledge of the allegations of Paragraph  
11 Nineteen and therefore, they are denied.

12                  **IV. PRIOR EFFORTS TO REPAY LOANS**

13      20. SMB is currently without knowledge of the allegations of Paragraph  
14 Twenty and therefore, they are denied.

15      21. SMB is currently without knowledge of the allegations of Paragraph  
16 Twenty-One and therefore, they are denied.

17      22. SMB is currently without knowledge of the allegations of Paragraph  
18 Twenty-Two and therefore, they are denied.

19      23. SMB is currently without knowledge of the allegations of Paragraph  
20 Twenty-Three and therefore, they are denied.

21      24. SMB is currently without knowledge of the allegations of Paragraph  
22 Twenty-Four and therefore, they are denied.

23      25. SMB is currently without knowledge of the allegations of Paragraph  
24 Twenty-Five and therefore, they are denied.

25      26. SMB is currently without knowledge of the allegations of Paragraph  
26 Twenty-Six and therefore, they are denied.

27                  **V. CURRENT ASSETS**

28      27. SMB is currently without knowledge of the allegations of Paragraph

1 | Twenty-Seven and therefore, they are denied.

2       28. SMB is currently without knowledge of the allegations of Paragraph  
3 Twenty-Eight and therefore, they are denied.

4       29. SMB is currently without knowledge of the allegations of Paragraph  
5 Twenty-Nine and therefore, they are denied.

6       30. SMB is currently without knowledge of the allegations of Paragraph Thirty  
7 and therefore, they are denied.

8       31. SMB is currently without knowledge of the allegations of Paragraph  
9 Thirty-One and therefore, they are denied.

## **VI. ADDITIONAL CIRCUMSTANCES**

1       32. SMB is currently without knowledge of the allegations of Paragraph  
2 Thirty-Two and therefore, they are denied.

## AFFIRMATIVE DEFENSES

4 As separate and distinct affirmative defenses to the purported causes of action in  
5 Plaintiff's Attestation, SMB alleges the affirmative defenses set forth below. By the  
6 following allegations, SMB does not assume the burden of proving any fact or element  
7 of a cause of action where such burden properly belongs to the Plaintiff.

## **FIRST AFFIRMATIVE DEFENSE**

#### **(Failure to State A Cause of Action)**

20       1. Defendant alleges as a separate and distinct affirmative defense that the  
21 Complaint, fails to state facts sufficient to constitute a cause of action against  
22 Defendant.

## **SECOND AFFIRMATIVE DEFENSE**

### (Unclean Hands)

25       2. Defendant alleges as a separate and distinct affirmative defense that  
26 Plaintiff's claims are barred, in whole or in part, by the equitable doctrine of unclean  
27 hands as the Plaintiff has not made a good faith effort to repay his loans.

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1                   **THIRD AFFIRMATIVE DEFENSE**

2                   **(Failure to Mitigate)**

3       3. Defendant alleges as a separate and distinct affirmative defense that  
4 Plaintiff failed to mitigate his alleged damages as his present financial situation is  
5 unlikely to persist for a significant portion of the student loans' repayment period.  
6 Therefore, Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to  
7 mitigate.

8                   **FOURTH AFFIRMATIVE DEFENSE**

9                   **(Reservation of Rights)**

10      4. Defendant alleges as a separate and distinct affirmative defense that it has  
11 insufficient knowledge or information on which to form a belief as to whether it may  
12 have additional, as yet unstated, affirmative defenses available. Defendant therefore  
13 reserves the right to assert additional affirmative defenses in the event discovery  
14 indicates such defenses would be appropriate.

15                   **WHEREFORE**, Defendant prays for judgment against Plaintiff as follows:

- 16      1. The Attestation be dismissed as against Defendant;
- 17      2. Plaintiff's prayers for relief, and each and every one of them, be denied;
- 18      3. Judgment be entered in favor of Defendant;

19                   Dated: January 2, 2024

HINSHAW & CULBERTSON LLP

20                   By: */s/ peter l. Isola*  
21                   PETER L. ISOLA  
22                   BRIAN S. WHITTEMORE  
23                   Attorneys for Defendant  
24                   SALLIE MAE BANK

1                   **FILER'S ATTESTATION**

2                   I, PETER L. ISOLA, am the ECF user whose identification and password are  
3 being used to file this ANSWER. In compliance with Local Rules, I hereby attest that  
4 all party signatories hereto concur in this filing.

5                   */s/ Peter L. Isola* \_\_\_\_\_  
6                   PETER L. ISOLA

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